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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/806,558	03/23/2004	Rod Lovett	TOW-0001	2565

7590 08/08/2005

Shawn Hunter
4058 Tartan Lane
Houston, TX 77025

EXAMINER

KIM, CHRISTOPHER S

ART UNIT	PAPER NUMBER
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3752

DATE MAILED: 08/08/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/806,558

Applicant(s)

LOVETT, ROD

Examiner

Christopher S. Kim

Art Unit

3752

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on 24 May 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on May 24, 2005 has been entered.
2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
4. Claims 6-9, 11-19 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 6 and 18 recite "...the selected information includes an indicator of a level of fluid insecticide remaining in the fluid reservoir." No structural element has been recited to provide for the "indicator of a level of fluid insecticide remaining in the fluid reservoir." It appears that an essential element has been omitted which enables the

Art Unit: 3752

information to include an indicator of a level of fluid insecticide remaining in the fluid reservoir.

Claims 7 and 19 recite "...the selected information includes an indicator of low pressure within the fluid conduit." No structural element has been recited to provide for the "indicator of low pressure within the fluid conduit." It appears that an essential element has been omitted which enables the information to include an indicator of low pressure within the fluid conduit.

Claim 8 recites "...the selected information includes information relating to a physical location of the system." No structural element has been recited to provide for the "information relating to a physical location of the system." It appears that an essential element has been omitted which enables the information to include information relating to a physical location of the system.

Claim 9 recites "...the selected information includes information identifying an owner of the system." No structural element has been recited to provide for the "information identifying an owner of the system." It appears that an essential element has been omitted which enables the information to include information identifying an owner of the system.

Claim 11 recites the limitation "the agitator" in line 7. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 103

5. Claim 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over Pasteur (2,668,082) in view of Levin (6,194,160).

Pasteur discloses a mosquito misting system comprising: a fluid reservoir 1; a misting nozzle 79; a conduit 77; a pump 20; an agitator 12. A controller is inherent but Pasteur does not disclose a programmable digital processor or a timer. Levin discloses a PC compatible computer to automate timed operation of a pump and agitator (see column 10, lines 45-53). It would have been obvious to a person having ordinary skill in the art at the time of the invention to have provided a computer to automate timed operation of the device of Pasteur.

6. Claims 1, 5, 6, 8, 9, 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bryan et al. (6,669,105) in view of Pasteur (2,668,082).

Bryan discloses a mosquito misting system comprising: a fluid reservoir 18; a misting nozzle 7; a conduit 23; a pump 19; a computer controller 8, a timer (see column 7, line 3); a transmitter 25. Bryan discloses a blower 10 but does not disclose an agitator. Pasteur teaches to return a portion of air from blower 6 to agitator 12 to agitate the fluid in tank 1. It would have been obvious to a person having ordinary skill in the art at the time of the invention to have provided returned a portion of the air from blower 10 to tank 18 in the device of Bryan via and agitator as taught by Pasteur to agitate the fluid in tank 18.

7. Claim 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over Dugan et al. (5,611,172) in view of Underwood (4,650,792) and Levin (6,194,160).

Dugan discloses a mosquito misting system comprising: a fluid reservoir 48; a misting nozzle 44; a conduit 56, 46; a pump 50; a computer controller 18, a timer 52. Dugan does not disclose an agitator. Underwood discloses an agitator 14 for mosquito insecticide in tank 12. Although Dugan implicitly teaches complete computer control (computer 18 controls pump 50, timer 52, scale 21 and vacuum system 14), Levin explicitly teaches to use a PC compatible computer to automate timed operation of a pump and agitator (see column 10, lines 45-53). It would have been obvious to a person having ordinary skill in the art at the time of the invention to have provided an agitator to the device of Dugan as taught by Underwood and Levin to automatically agitate the spray fluid.

8. Claims 2, 11, 12, 13, 17, 18, 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bryan et al. (6,669,105) in view of Pasteur (2,668,082) or Dugan et al. (5,611,172) in view of Underwood (4,650,792) and Levin (6,194,160) as applied to claim 1 above, and further in view of Khurgin et al. (4,433,577).

Bryan in view of Pasteur discloses the limitations of the claimed invention with the exception of the plurality of float sensor assemblies. Dugan in view of Underwood and Levin also discloses the limitations of the claimed invention with the exception of the plurality of float sensor assemblies. Khurgin teaches a plurality of float level sensor assemblies in figure 14. It would have been obvious to a person having ordinary skill in the art at the time of the invention to have provided a plurality of float level sensor assemblies in the device of Bryan in view of Pasteur or Dugan in view of Underwood and Levin as taught by Khurgin to sense the level of the liquid in the tank.

Regarding claim 17, Dugan further discloses a transmitter 25

9. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bryan et al. (6,669,105) in view of Pasteur (2,668,082) or Dugan et al. (5,611,172) in view of Underwood (4,650,792) and Levin (6,194,160) as applied to claim 1 above, and further in view of Gross (6,547,529).

Bryan in view of Pasteur discloses the limitations of the claimed invention with the exception of the pressure switch. Dugan in view of Underwood and Levin also discloses the limitations of the claimed invention with the exception of the pressure switch. Gross teaches a pressure switch 8 and controller 15 to stop dry run of pump 16. It would have been obvious to a person having ordinary skill in the art at the time of the invention to have provided a pressure switch to the device of Bryan in view of Pasteur or Dugan in view of Underwood and Levin as taught by Gross to prevent dry run of the pump.

10. Claims 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dugan et al. (5,611,172) in view of Underwood (4,650,792) and Levin (6,194,160) as applied to claim 1 above, and further in view of Sieminski (6,823,239).

Dugan in view of Underwood and Levin discloses the limitations of the claimed invention with the exception of the remote control. Sieminski teaches a remote control 101 for controller 102 for control using the Internet. It would have been obvious to a person having ordinary skill in the art at the time of the invention to have provided a remote control to the device of Dugan in view of Underwood and Levin as taught by Sieminski for remote control using the Internet.

Art Unit: 3752

11. Claims 14 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bryan et al. (6,669,105) in view of Pasteur (2,668,082) or Dugan et al. (5,611,172) in view of Underwood (4,650,792) and Levin (6,194,160) as applied to claim 1 above, and further in view of Khurgin et al. (4,433,577) as applied to claim 11 above, and further in view of Gross (6,547,529).

Bryan in view of Pasteur or Dugan view of Underwood and Levin and further in view of Khurgin discloses the limitations of the claimed invention with the exception of the plurality of float sensor assemblies. Gross teaches a pressure switch 8 and controller 15 to stop dry run of pump 16. It would have been obvious to a person having ordinary skill in the art at the time of the invention to have provided a pressure switch to the device of Bryan in view of Pasteur or Dugan view of Underwood and Levin and further in view of Khurgin as taught by Gross to prevent dry run of the pump.

12. Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Dugan et al. (5,611,172) in view of Underwood (4,650,792) and Levin (6,194,160) as applied to claim 1 above, and further in view of Khurgin et al. (4,433,577) as applied to claim 11 above, and further in view of Sieminski (6,823,239).

Dugan view of Underwood and Levin and further in view of Khurgin discloses the limitations of the claimed invention with the exception of the remote control. Sieminski teaches a remote control 101 for controller 102 for control using the Internet. It would have been obvious to a person having ordinary skill in the art at the time of the invention to have provided a remote control to the device of Dugan view of Underwood and Levin

and further in view of Khurgin as taught by Sieminski for remote control using the Internet.

Response to Arguments

13. Applicant's arguments with respect to claims 1-20 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher S. Kim whose telephone number is (571) 272-4905. The examiner can normally be reached on Monday - Thursday, 6:30 AM - 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dave Scherbel can be reached on (571) 272-4919. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Application/Control Number: 10/806,558
Art Unit: 3752

Page 9

A handwritten signature in black ink, appearing to read 'Christopher S. Kim', with a long horizontal line extending to the right.

Christopher S. Kim
Primary Examiner
Art Unit 3752

CK